



DEPARTMENT OF COMMERCE

International Trade Administration

[A-357-823]

Raw Honey from Argentina: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of raw honey from Argentina are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation, April 1, 2020, through March 31, 2021.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Thomas Martin or Eva Kim, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3936 or (202) 482-8283, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 2021, Commerce published its preliminary determination in the LTFV investigation of raw honey from Argentina, and also postponed the final determination until April 7, 2022.¹ Commerce invited interested parties to comment on the *Preliminary Determination*. For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.²

¹ See *Raw Honey from Argentina: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 66531 (November 23, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Raw Honey from Argentina,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Scope of the Investigation

The product covered by this investigation is raw honey from Argentina. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, no changes were made to the scope of the investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, *see* Appendix II to this notice.

The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).³

Final Affirmative Determination of Critical Circumstances

³ See Commerce's Letters, "Remote Verification Questionnaire," dated December 6, 2021; and "Remote Verification Questionnaire," dated December 13, 2021; *see also* NEXCO's Letter, "Raw Honey from Argentina. Case No. 4-357-823: Remote Verification Questionnaire Response for NEXCO S.A. and ***, " dated December 15, 2021; and ACA's Letter, "Raw Honey from Argentina, Case No. A-357-823: Remote Verification Questionnaire Response for Asociación de Cooperativas Argentinas C.L. and ***, " dated December 22, 2021.

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determined that critical circumstances existed with respect to imports of raw honey from Argentina produced and exported by Asociación de Cooperativas Argentinas Cooperativa Limitada (ACA), Industrias Haedo S.A. (Haedo), and Compañía Inversora Platense S.A. (CIPSA) and all other producers and exporters.⁴ Commerce did not receive any comments in response to its preliminary determination with respect to critical circumstances. Accordingly, for the final determination and based on our preliminary analysis, we continue to find that critical circumstances exist in the final determination.⁵ For a further discussion of our critical circumstances analysis, *see* Issues and Decision Memorandum.

Changes Since the *Preliminary Determination*

Based on the comments received from interested parties and record information, we made certain changes to our calculations of the dumping margins for ACA and NEXCO S.A. (NEXCO). For a discussion of these changes, *see* the Issues and Decision Memorandum.

Use of Adverse Facts Available

Both mandatory respondents, Haedo and CIPSA, notified Commerce that it would not participate in this investigation.⁶ Therefore, in the *Preliminary Determination*, pursuant to sections 776(a) and (b) of the Act, we assigned to Haedo and CIPSA the highest Petition margin based on adverse facts available (AFA).⁷ No party filed comments concerning the *Preliminary Determination* with respect to Haedo and CIPSA, and there is no new information on the record that would cause us to revisit the *Preliminary Determination*. Accordingly, we continue to find that the application of AFA pursuant to sections 776(a) and (b) of the Act is warranted with

⁴ For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* Preliminary Determination Memorandum at 12-17 and Memorandum, "Antidumping Duty Investigation of Raw Honey from Argentina: Preliminary Critical Circumstances Surge Analysis," dated November 17, 2021 (Preliminary Critical Circumstances Analysis).

⁵ *See* Preliminary Critical Circumstances Analysis; and "Antidumping Duty Investigation of Raw Honey from Argentina: Final Critical Circumstances Surge Analysis," dated April 7, 2022.

⁶ *See* Haedo's Letter, "Raw Honey from Argentina: Explanation of Unique Circumstances," dated June 10, 2021; and CIPSA's Letter, "Raw Honey from Argentina, Case No. A-357-823: Compañía Inversora Platense S.A. Notification of Non-Participation," dated June 21, 2021.

⁷ *See Preliminary Determination* PDM at 8-11.

respect to these companies. Consistent with the *Preliminary Determination*, Commerce has continued to assign to Haedo and CIPSA the highest Petition margin, which is 49.44 percent. We also are applying partial AFA in calculating the weighted-average dumping margin for ACA, under sections 776(a) and (b) of the Act. For a full description of Commerce's partial AFA analysis, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all of the exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters not individually investigated. Commerce calculated individual estimated weighted-average dumping margins for ACA and NEXCO, two of the mandatory respondents which were examined as exporters/producers in this investigation. Because ACA and NEXCO's calculated dumping margins are not zero, *de minimis*, or based entirely on facts otherwise available, Commerce calculated the all-others rate using a simple average of the estimated weighted-average dumping margins calculated for ACA and NEXCO,⁸ pursuant to section 735(c)(5)(A) of the Act.

⁸ With more than one respondent under examination, Commerce normally calculates: (A) A weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly-ranged sales data were available,

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
Asociación De Cooperativas Argentinas Cooperativa Limitada	24.67
NEXCO S.A.	9.17
Industrias Haedo S.A.	49.44
Compañía Inversora Platense S.A.	49.44
All Others	16.92

Disclosure

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of raw honey from Argentina, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after November 23, 2021, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

Section 735(c)(4) of the Act provides that if there is an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. As noted above, Commerce finds that critical circumstances exist for imports of subject

Commerce based the all-others rate on the publicly-ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, “Less Than Fair Value Investigation of Raw Honey from Argentina: Preliminary Determination Calculation for the All-Others,” dated November 19, 2021.

merchandise produced and/or exported by ACA, Haedo, CIPSA, and all other producers and exporters. Therefore, in accordance with section 735(c)(4) of the Act, suspension of liquidation shall continue to apply to unliquidated entries of subject merchandise produced and/or exported by ACA, Haedo, CIPSA, and by all other producers and exporters that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date of publication of the *Preliminary Determination* in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin as follows: (1) the cash deposit rate for the respondent listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of this final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that material injury or threat of material injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all

imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and the terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination and notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: April 7, 2022.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, e.g., a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Excluded from the scope is any honey that is packaged for retail sale (e.g., in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to this investigation is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

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- IV. Changes Since the *Preliminary Determination*
- V. Discussion of the Issues
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 - Comment 2: Whether to Use Quarterly or Monthly Cost Averaging Periods
 - Comment 3: Whether Commerce's Inflation Methodology Requires the Use of Monthly Sales Comparisons in Investigations When Sales Prices in Both Markets Are Denominated in U.S. Dollars and Where the Only Difference in Merchandise Adjustment (Homogenization) Has Been Weight Averaged Over the Period
 - Comment 4: When Using Acquisition Costs, Whether Commerce Should Lag Acquisition Costs by Two Months
 - Comment 5: Adjustments to Commerce's Alternative Cost Averaging Methodology
 - Comment 6: Whether Commerce's Use of the Differential Pricing Analysis or the Cohen's *d* Test Comports with the Federal Circuit's Recent Decision in *Stupp*
 - Comment 7: Whether Commerce Should Treat ACA's and NEXCO's SENASA-Related Expenses as a U.S. Price Deduction Instead of as Circumstance of Sale Adjustment
 - Comment 8: Cost of Production Calculation for ACA's Middleman Supplier
 - Comment 9: Whether to Continue to Apply Facts Available (AFA) for ACA's Non-responsive Direct Beekeeper Supplier and ACA's Middleman Beekeeper Supplier
 - Comment 10: ACA's Financial Expenses
 - Comment 11: Whether Commerce Should Incorporate Bad Debt Expenses Within ACA's Financial Expenses
 - Comment 12: ACA's General and Administrative Expenses
 - Comment 13: Whether Commerce Should Correct Ministerial Errors in the Calculation of ACA's Margin for the Final Determination
 - Comment 14: Errors in NEXCO's Reported Direct Material Costs
 - Comment 15: Errors in Commerce's Direct Material Cost Calculations for NEXCO
 - Comment 16: Whether Commerce Should Revise NEXCO's Indirect Selling Expenses
 - Comment 17: Whether Commerce Should Treat NEXCO's Export Taxes as a U.S. Price Deduction Instead of As a Circumstance of Sale Adjustment
 - Comment 18: Whether Commerce Should Add a Price Deduction Variable to NEXCO's U.S. Sales Database
 - Comment 19: Whether to Apply Partial AFA to NEXCO due to the Unusable Cost Responses Submitted by Its Beekeeper Suppliers
- VI. Recommendation